

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

HUMBOLDT BAYKEEPER, et al.,

No. C 06-04188 CRB

Plaintiffs,

**ORDER GRANTING MOTION TO
DISMISS**

v.

SIMPSON TIMBER COMPANY, et al.,

Defendants.

This case stems from the pollution of a seventeen-acre site of property in Eureka, California. Before settling with Plaintiffs by way of consent decree, Defendant Preston Properties – owner of the contaminated site – cross-claimed against Defendant Simpson Timber Company under five state-law causes of action: (1) negligence; (2) indemnity based on tort of another; (3) implied indemnity; (4) nuisance; and (5) public nuisance. Simpson now moves to dismiss based on a multitude of theories, including lack of capacity, lack of jurisdiction, and failure to state a claim. Because all federal claims have been resolved, the Court declines to exercise ancillary jurisdiction over Preston’s cross-claim and Simpson’s motion to dismiss is therefore GRANTED.

It is the practice of federal courts “to dismiss state law claims once the federal claim has been resolved” prior to trial. Danner v. Himmelfarb, 858 F.2d 515, 523 (9th Cir. 1988) (citing United Mine Workers v. Gibbs, 383 U.S. 715 (1966)). That practice is predicated on,

1 among other things, traditional notions of comity and respect for the state court system.

2 Here, all of the plaintiffs' federal claims have been resolved. The federal claims
3 between Plaintiffs and Preston were settled by order dated January 11, 2008; the federal
4 claims between Plaintiffs and Simpson were settled by order dated March 21, 2008; the
5 federal claims between Plaintiffs and Defendant North Coast Railroad Authority were
6 dismissed with prejudice on March 21, 2008; and the federal claims between Plaintiffs and
7 Defendant SHN Consulting were dismissed with prejudice on April 9, 2008.

8 Because all of the federal claims are now resolved, the "values of judicial economy,
9 convenience, fairness, and comity" heavily weigh in favor of dismissing Preston's state-
10 based cross-claim without prejudice. Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350
11 (1988). Accordingly, Simpson's motion to dismiss is GRANTED.

12 **IT IS SO ORDERED.**



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

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15 Dated: April 9, 2008
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